

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/800,215
Confirmation No.: 8547
First-Named Inventor: Rohleder
Filing Date: March 12, 2004
Group Art Unit: 3768
Examiner: Winakur, Eric Frank
Attorney Docket No.: 007404-000781
Title: ANALYSIS SYSTEM FOR REAGENT-FREE DETERMINATION
OF THE CONCENTRATION OF AN ANALYTE IN LIVING
TISSUE

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The applicant wishes to thank the Examiner for the Notice of Allowance. Applicant submits and agrees that the pending claims are allowable over the prior art. However, applicant specifically reserves the right to pursue different and/or broader claims in other applications.

In the Notice of Allowability, the Examiner included statements regarding reasons for allowance of the claims. Applicant agrees that the prior art of record fails to teach or render obvious the claims pending in the present application. However, applicant submits that any statement of reasons for allowance necessarily contains characterizations of the claims or of the prior art which cannot adequately indicate the bases for allowance of the claims. Accordingly, applicant submits that the stated reasons for allowance do not adequately describe the applicant's invention as claimed, or the reasons that the claims are allowable over the prior art.

Each claim is allowable because each claim recites a combination of elements not disclosed or suggested by any of the references, taken alone or in combination. The invention resides in the combination of elements as variously recited in the claims, and not in the presence of any one or a few particular elements or limitations. Further, it is to be understood that each claim stands on its own merits.

Applicant therefore does not acquiesce to any inference or presumption which may be drawn from the Examiner's statements regarding the reasons for allowance. As stated in the MPEP at 1302.14, "[t]he examiner's statement of reasons for allowance is the personal opinion of the examiner as to why the claims are allowable [and the] examiner's statement should not create an estoppel."

Respectfully submitted,

By /Charles P. Schmal #45,082/
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